

STATE OF VERMONT
HUMAN SERVICES BOARD

In re) Fair Hearing No. B-08/20-485
)
Appeal of)
)

INTRODUCTION

Petitioner appeals a denial of temporary housing assistance imposed by the Vermont Department for Children and Families Economic Services Division (Department). The following is based upon an expedited hearing held August 7, 2020.

FINDINGS OF FACT

1. Petitioner has been provided housing through the General Assistance (GA) temporary housing program during some time periods in 2020. Petitioner has also been denied temporary housing and been required to "self-house" for various numbers of days because of his receipt of income from employment; after the period of self-housing, petitioner again became eligible for temporary housing from the Department.

2. From March 2020 until recently, the Department operated the temporary housing program using relaxed

standards because of the COVID-19 pandemic. However, by a policy letter dated June 22, 2020, the Department notified individuals applying for or receiving housing that effective July 13, 2020, households would need to meet more stringent income and resource thresholds¹. The new eligibility household income threshold is income at or below 185 percent of the Federal Poverty Level (FPL) for the 30-day period prior to application. This new policy is posted on the Department's "Covid 19" webpage and was delivered by letter to applicants and guests (by motel staff) on or about June 22nd.

3. Petitioner again applied for temporary housing by application dated August 3, 2020. At the Department's request, petitioner submitted two paystubs from employment showing gross wages of \$970.40 (check dated July 16th) and \$1,171.20 (check dated July 20th) for a total of \$2,141.60.

4. 185 percent of the FPL for a household of one (HH1) is \$1,926 per month. On that basis, the Department determined that petitioner was over income for temporary housing assistance.

¹The Department issued a comprehensive policy for the Temporary Housing program on August 11, 2020 entitled *General/Emergency Temporary Housing Waiver and Variance of Rules Through March 31, 2021*. This policy contains the same income threshold requirement noted above.

5. After filing a request for fair hearing, petitioner was subsequently housed by the Department until the date of the hearing.

ORDER

The Department's decision is affirmed.

REASONS

Review of the Department's determination is de novo. The Department has the burden of proof at hearing if terminating or reducing existing benefits; otherwise the petitioner bears the burden. See Fair Hearing Rule 1000.3.O.4.

In response to the Covid-19 state of emergency, the Vermont Legislature passed "An Act relating to Vermont's response to Covid-19." Act. 91 of 2020-2021 Session (eff. March 31, 2020) (Act 91). Act 91 contains broad authority for the Vermont Agency of Human Services to waive, modify and adopt all program rules:

During a declared state of emergency in Vermont as a result of COVID-19, the Agency of Human Services shall consider waiving or modifying existing rules, or adopting emergency rules, to protect access to health care services, long-term services and supports, and other human services under the Agency's jurisdiction.

Act 91, § 1.

The Department's Economic Services Division, in turn, has established a "GA Covid Policy" which provides that:

- Act 91, signed by Governor Scott on March 30th, gave ESD the ability to modify our program rules to meet the public health crisis created by the COVID-19 pandemic.
- General and Emergency Assistance rules (2600 and 2800) no longer apply.
- AWC [Adverse Weather Conditions] rules no longer apply.
- Temporary housing rules are based entirely on authority granted ESD under Act 91.
- ESD communicates new rules and rule changes to hotel guests via written notice and at interview.

ESD GA Covid Policy at p. 2².

This policy further provides that one of the conditions of temporary housing eligibility (effective July 13, 2020) is that an applicant household's income must be at or below 185 percent of the FPL, based on household size. See ESD GA Covid Policy at p. 5. Petitioners' household income exceeds the applicable threshold of \$1,926 per month.

For the above reasons, the Department's decision is consistent with the applicable rules and the Board must affirm. See 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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²As of the date of the hearing officer's recommendation, a copy of this policy had not yet been posted on the Department's Economic Services Division ("ESD") "Covid-19" website: <https://dcf.vermont.gov/esd/covid19>.